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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.NO.1539 OF 2020

Paramasivam,
S/o.Ammasai,
D.No.1/391, Karuppagoundanur,
Thappakuttai,
Salem District-637 502.

... Appellant/Petitioner

Vs.

1. Thirumalaisamy,
S/o.Kolandha Gounder,
Balan Transport,
Transport Nagar, Hatkaj,
Philai, Chattisgarh-490 001.

2. The National Insurance Co. Ltd.,
Royal Towers, 185/1, Meyyanur Road,
ARRS Multiplex Theatre,
Salem-636 004.

... Respondents/
Respondents

PRAYER:-

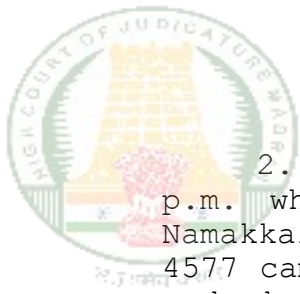
Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act against the judgment and decree in M.C.O.P. No.1949 of 2017, dated 23.01.2020 on the file of the Motor Accident Claims Tribunal, Special Sub-Judge No.I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr.S.Arunkumar
for R2

J U D G M E N T

The claimant is the appellant, seeking for enhancement of compensation.



2. The case of claimant is that, on 08.06.2017 at 02.15 p.m. while the appellant riding a two wheeler on the Salem-Namakkal National Highways, a lorry bearing Regn. No.CG-07 C-4577 came behind the two wheeler, in a rash and negligent manner and dashed against the motorcycle, in which, the appellant/claimant had suffered serious injury including a fracture. He was admitted in the Universal Hospital, Salem, and undergone surgery and he has spent huge amount towards medical expenses. In view of injuries, he has suffered permanent disability and hence, claiming compensation of Rs.15 lakhs, the claim petition has been filed by the appellant.

3. The 1st respondent/owner of the vehicle remained exparte and the second respondent Insurance Company contested the claim petition on the ground that, the accident was taken place due to the negligent driving of appellant in the national highways, the appellant came in a wrong way and hit against the lorry. Hence, the driver of the 1st respondent lorry cannot be held responsible for the accident, consequently, the insurance company is not liable to pay any compensation. That apart, the appellant also did not suffer any permanent disability and the compensation claimed by the appellant before the Tribunal is highly excessive.

4. In order to prove his claim, the Appellant/claimant examined himself as P.W.1, and marked as many as 10 documents. On the side of respondents, the Sub-Inspector of Police, Mallur was examined as R.W.1 and the F.I.R. was marked as Ex.R1.

5. The Tribunal, after considering the materials available on record, has come to a conclusion that the accident has taken place due to the rash and negligent driving of the driver of the lorry and held that the respondents are liable to pay compensation. So far as quantum of compensation is concerned, the Tribunal has awarded a sum of Rs.15,000/- towards pain and suffering, a sum of Rs.22,500/- towards loss of income, a sum of Rs.79,417/- towards medical expenses, a sum of Rs.7,500/- towards transport charges, a sum of Rs.7,500/- towards extra nourishment, a sum of Rs.7,500/- towards attender charges, a sum of Rs.1000/- towards damages to clothes, a sum of Rs.15,000/- towards loss of estate and a sum of Rs.45,000/- towards permanent disability. Totally, a sum of Rs.2,00,417/- has been granted as compensation. Not feeling satisfied with the same, the claimant has filed this Civil Miscellaneous Appeal before this Court.

6. Heard the learned counsel appearing for appellant as well as 2nd respondent and perused the materials available on records.

7. On perusal of records, it could be seen that, the



accident was taken place on 08.06.2017 and in the accident, the appellant has suffered the following injury :-

"Grade I fracture of both bones in left leg",

"He has difficulty in squatting. Sitting cross legged"

As per the disability certificate, he has suffered 15% partial disability, and he has taken treatment for 6 days in the hospital. Accepting the disability assessed by the Medical Board, the Tribunal has awarded a sum of Rs.45,000/- towards permanent disability, and for pain and suffering, a sum of Rs.15,000/- was awarded by the Tribunal. The learned counsel appearing for the appellant would submit that the appellant has undergone the treatment for a week. Even thereafter, he was not able to sit, walk properly and he is having difficulty in squatting. He was bedridden for more than three months.

8. Considering the above circumstances, a sum of Rs.25,000/- is granted towards pain and suffering instead of Rs.15,000/- as awarded by the Tribunal. So far as loss of income is concerned, he was bedridden for three months, hence, a sum of Rs.50,000/- is granted instead of Rs.22,500/- awarded by the Tribunal. That apart, towards extra nourishment, a sum of Rs.10,000/- is granted instead of Rs.7,500/-, a sum of Rs.15,000/- is granted towards attender charges instead of Rs.7500/-, and a sum of Rs.17,500/- is granted towards loss of amenities instead of Rs.15,000/- awarded by the Tribunal. So far as other heads are concerned, the interference of this Court is not required. In the said circumstances, the award passed by the Tribunal is modified as follows :-

Sl. No.	Headings	Amount Awarded by the Tribunal Rs.	Amount awarded by this Court	Award confirmed or enhanced
1	Pain and suffering	15,000	25,000	enhanced
2	Loss of income	22,500	50,000	enhanced
3	Medical expenses	79,417	79,417	confirmed
4	Transport expenses	7500	7500	confirmed
5	Extra nourishment	7500	10,000	enhanced
6	Attender charges	7500	15,000	enhanced
7	Damages to clothes	1000	1000	confirmed
8	Loss of amenities	15,000	17,500	enhanced
9	Permanent disability	45,000	45,000	confirmed
	Total	2,00,417	2,50,417	enhanced



Thus, the appellant is entitled to get a sum of Rs.2,50,417/-, which was rounded up as Rs.2,50,000/- towards compensation instead of Rs.2,00,417/- awarded by the Tribunal.

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9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,00,417/- is hereby enhanced to Rs.2,50,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
Special Subordinate Judge No.1,
Salem.

Copy To

The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.37096

C.M.A.No.1539 of 2020

GJ(CO)
CS/26/08/2021